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**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	Case No. AC-2003-37
)	
JEANNINE R. PEKRUL)	
2617 Showcase Drive)	
Las Vegas, NV 89134)	
)	DEFAULT DECISION
Certified Public Accountant Certificate)	AND ORDER
No. 56381)	
)	[Gov. Code, §11520]
)	
Respondent)	

FINDINGS OF FACT

1. On or about October 29, 2003, Complainant Carol Sigmann, in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs, filed Accusation No. AC-2003-37 against Jeannine R. Pekarul (Respondent) before the California Board of Accountancy.

2. On or about August 3, 1990, the California Board of Accountancy (Board) issued Certified Public Accountant Certificate No. 56381 to Respondent. The Certified Public Accountant Certificate expired on August 1, 2003, and has not been renewed.

1 3 . On or about November 7, 2003, Valerie Villegas, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
3 AC-2003-37, Statement to Respondent, Notice of Defense, Request for Discovery, and
4 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
5 with the Board, which was and is 2617 Showcase Drive, Las Vegas, NV 89134. A copy of
6 the Accusation is attached as exhibit A, and are incorporated herein by reference.

7 4 . Service of the Accusation was effective as a matter of law under the
8 provisions of Government Code section 11505, subdivision (c).

9 5. On or about November 25, 2003, the aforementioned documents were
10 returned by the U.S. Postal Service marked "Returned to Sender." A copy of the postal
11 returned documents are incorporated herein by reference.

12 6. Business and Professions Code section 5109 states:

13 "The expiration, cancellation, forfeiture, or suspension of a license by operation of
14 law or by order or decision of the board or a court of law, or the voluntary surrender of a
15 license by a licensee shall not deprive the board of jurisdiction to proceed with any
16 investigation of or action or disciplinary proceeding against the licensee, or to render a decision
17 suspending or revoking the license."

18 7. Government Code section 11506 states, in pertinent part:

19 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
21 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver
22 of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a
23 hearing."

8. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. AC-2003-37.

9. California Government Code section 11520 states, in pertinent part:

“(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent’s express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.”

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A and B finds that the allegations in Accusation No. AC-2003-37 are true.

11. The total costs for investigation and enforcement are \$3,217.44 as of January 6, 2004.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Jeannine R. Pekar has subjected her Certified Public Accountant Certificate No. 56381 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The California Board of Accountancy is authorized to revoke Respondent's Certified Public Accountant Certificate based upon the following violations alleged in the Accusation:

a. Business and Professions Code sections 5100(a), 5106, and 490 for unprofessional conduct for convictions of crimes substantially related to the qualifications, functions and duties of a Certified Public Accountant.

b. Business and Professions Code section 5100(c) in conjunction with California Code of Regulations, title 16, section 58 for unprofessional conduct for fraudulent and dishonest acts.

c. Business and Professions Code sections 5100(g) and 5063 for unprofessional conduct for failure to notify the Board of her convictions.

ORDER

IT IS SO ORDERED that Certified Public Accountant Certificate No. 56381, heretofore issued to Respondent Jeannine R. Pekrul, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall be come effective on April 1, 2004

It is so ORDERED March 2, 2004

Joe B. Thomas

IAN B. THOMAS, President
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation No. AC-2003-37

Exhibit A

Accusation No. AC-2003-37

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of the State of California
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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2003-37

12 JEANNINE R. PEKRUL
2617 Showcase Drive
13 Las Vegas, NV 89134

A C C U S A T I O N

14 Certified Public Accountant Certificate
No. 56381

15
16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the California Board of Accountancy, Department of
22 Consumer Affairs.

23 2. On or about August 3, 1990, the California Board of Accountancy issued
24 Certified Public Accountant Certificate No. 56381 to Jeannine R. Pekarul (Respondent). The
25 Certificate was placed in an inactive status as of August 7, 1991. The Certificate was expired
26 during the period August 1, 1993 through August 22, 1993.

27 The Certificate was renewed effective August 23, 1993 through July 31, 1995.

28 The Certificate was expired during the period August 1, 1995 through October 15, 1995.

1 The Certificate was renewed effective October 16, 1995 through July 31, 1997.

2 The Certificate was expired during the period August 1, 1997 through April 15, 1998.

3 The Certificate was renewed effective April 16, 1998 through July 31, 1999. The
4 Certificate expired on August 1, 2003, and has not been renewed.

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6

JURISDICTION

7

8 3. This Accusation is brought before the California Board of Accountancy
9 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

11

12 4. Section 5109 of the Code states:

13

14 "The expiration, cancellation, forfeiture, or suspension of a license by operation of
15 law or by order or decision of the board or a court of law, or the voluntary surrender of a license
16 by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or
17 action or disciplinary proceeding against the licensee, or to render a decision suspending or
18 revoking the license.

19

20 5. Section 5051 states:

21

22 "Except as provided in Sections 5052 and 5053, a person shall be deemed to be
23 engaged in the practice of public accountancy within the meaning and intent of [Chapter 1 of
24 Division 3 (commencing with Section 5000)] if he or she does any of the following:

25

26 "(a) Holds himself or herself out to the public in any manner as one skilled in the
27 knowledge, science, and practice of accounting, and as qualified and ready to render professional
28 service therein as a public accountant for compensation.

29

30 "(b) Maintains an office for the transaction of business as a public accountant.

31

32 "(c) Offers to prospective clients to perform for compensation, or who does
33 perform on behalf of clients for compensation, professional services that involve or require an
34 audit, examination, verification, investigation, certification, presentation, or review of financial
35 transactions and accounting records.

36

37 "(d) Prepares or certifies for clients reports on audits or examinations of books or

1 records of account, balance sheets, and other financial, accounting and related schedules,
2 exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining
3 credit, for filing with a court of law or with any governmental agency, or for any other purpose.

4 "(e) In general or as an incident to that work, renders professional services to
5 clients for compensation in any or all matters relating to accounting procedure and to the
6 recording, presentation, or certification of financial information or data.

7 "(f) Keeps books, makes trial balances, or prepares statements, makes audits, or
8 prepares reports, all as a part of bookkeeping operations for clients.

9 "(g) Prepares or signs, as the tax preparer, tax returns for clients.

10 "(h) Prepares personal financial or investment plans or provides to clients
11 products or services of others in implementation of personal financial or investment plans.

12 "(i) Provides management consulting services to clients.

13 "The activities set forth in subdivisions (f) to (i), inclusive, are 'public
14 accountancy' only when performed by a certified public accountant or public accountant, as
15 defined in this chapter.

16 "A person is not engaged in the practice of public accountancy if the only services
17 he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not
18 hold himself or herself out, solicit, or advertise for clients using the certified public accountant or
19 public accountant designation. A person is not holding himself or herself out, soliciting, or
20 advertising for clients within the meaning of this section solely by reason of displaying a CPA or
21 PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than
22 signs, advertisements, letterhead, business cards, publications directed to clients or potential
23 clients, or financial or tax documents of a client."

24 6. Section 5100 states:

25 "After notice and hearing the board may revoke, suspend or refuse to renew any
26 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
27 (commencing with Section 5080), or may censure the holder of that permit or certificate for
28 unprofessional conduct which includes, but is not limited to, one or any combination of the

1 following causes:

2 "(a) Conviction of any crime substantially related to the qualifications, functions
3 and duties of a certified public accountant or a public accountant.

4

5 "(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in
6 the same or different engagements, for the same or different clients, or any combination of
7 engagements or clients, each resulting in a violation of applicable professional standards that
8 indicate a lack of competency in the practice of public accountancy or in the performance of the
9 bookkeeping operations described in Section 5052.

10

11 "(g) Willful violation of this chapter or any rule or regulation promulgated by the
12 board under the authority granted under this chapter."

13 7. Section 5063 of the Code requires a licensee to report in writing to the
14 Board within 30 days all felony convictions and convictions of any crime: related to the
15 qualifications, functions or duties of a licensee or committed in the course and scope of practice
16 of public accountancy; or involving theft, embezzlement, misappropriation of funds or property,
17 breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false,
18 fraudulent, or materially misleading financial statements, reports or information.

19 8. Section 5106 states:

20 "A plea or verdict of guilty or a conviction following a plea of nolo contendere is
21 deemed to be a conviction within the meaning of this article. The record of the conviction shall
22 be conclusive evidence thereof. The board may order the certificate or permit suspended or
23 revoked, or may decline to issue a certificate or permit, when the time for appeal has elapsed, or
24 the judgment of conviction has been affirmed on appeal or when an order granting probation is
25 made, suspending the imposition of sentence, irrespective of a subsequent order under the
26 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of
27 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the
28 accusation, information or indictment."

1 9. Section 490 states:

2 "A board may suspend or revoke a license on the ground that the licensee has been
3 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
4 of the business or profession for which the license was issued. A conviction within the meaning
5 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
6 contendere. Any action which a board is permitted to take following the establishment of a
7 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
8 been affirmed on appeal, or when an order granting probation is made suspending the imposition
9 of sentence, irrespective of a subsequent order under the provisions of section 1203.4 of the
10 Penal Code."

11 10. California Code of Regulations, title 16, section 58, provides that licensees
12 engaged in the practice of public accountancy shall comply with all applicable professional
13 standards, including but not limited to generally accepted accounting principles and generally
14 accepted auditing standards.

15 11. Section 5107, subdivision (a), states, in pertinent part:

16 "The executive officer of the board may request the administrative law judge, as
17 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
18 certificate found guilty of unprofessional conduct in violation of subdivisions (b), (c), (i), or (j) of
19 Section 5100, or involving a felony conviction in violation of subdivision (a) of Section 5100, or
20 involving fiscal dishonesty in violation of subdivision (h) of Section 5100, to pay to the board all
21 reasonable costs of investigation and prosecution of the case, including, but not limited to,
22 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

23 FIRST CAUSE FOR DISCIPLINE

24 (Convictions of Substantially Related Crimes)

25 12. Respondent is subject to disciplinary action under sections 5100,
26 subdivision (a), on the grounds of unprofessional conduct, as defined in sections 5106 and 490 of
27 the Code on the grounds of unprofessional conduct in that Respondent was convicted of
28 substantially related crimes. The circumstances are as follows:

1 a. On or about July 30, 2003, Respondent was convicted on a plea of guilty
2 to violating Nevada Revised Statutes (NRS) 205.0832 and 205.0835, Felony (Theft), in the
3 District Court, Clark County, Nevada, Case No. C 1913722, entitled *The State of Nevada v.*
4 *Jeannine Pekarul*.

5 b. The circumstances surrounding the conviction are that on and between
6 April 18, 2003 and May 20, 2003, while employed as a financial controller for Astro Systems,
7 Inc., Respondent forged checks to herself and another. Respondent cashed a total amount
8 exceeding \$250,000 for her own personal use without the authorization from Astro Systems, Inc.

9 c. On or about July 23, 2003, Respondent was convicted on a plea of guilty
10 to violating Nevada Revised Statutes (NRS) 205.0832 and 205.0835, Category C Felony (Theft),
11 in the District Court, Clark County, Nevada, Case No. C 193493, entitled *The State of Nevada v.*
12 *Jeannine Pekarul*.

13 d. The circumstances surrounding the conviction are that between September
14 18, 2002 to on or about January 16, 2003, while employed as a part-time bookkeeper for the law
15 firm of Eric Dobberstein & Associates, Respondent embezzled an amount in excess of \$35,000.
16 Respondent forged her employer's signature on checks from the firm's general and trust bank
17 accounts and misused the firm's Office Depot account for personal purchases.

18 e. On or about January 6, 2003, Respondent was convicted on a plea of guilty
19 of violating NRS 193.330, 205.0832 and 205.0835, Category D Felony/Gross Misdemeanor,
20 (Attempt Theft), in the District Court, Clark County, Nevada, Case No. C 187933, entitled *The*
21 *State of Nevada v. Jeannine Pekarul*.

22 f. The circumstances surrounding the conviction are that from on and
23 between February 1, 2001 and October 31, 2001, while employed by Inkware, LLC, as controller,
24 she forged checks written to herself from Inkware's payroll account. Respondent signed all
25 documents using her Certified Public Accountant designation. Respondent also misused the
26 company's credit card by making unauthorized personal purchases. Respondent embezzled an
27 amount of approximately \$58,884.74.

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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: October 29, 2003

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CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant